

TXO PRODUCTION CORP.

IBLA 82-745

Decided May 9, 1983

Appeal from decision by the Colorado State Office, Bureau of Land Management, increasing oil and gas lease rental. C-27406.

Affirmed.

1. Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases:  
Rentals

A determination by the Department concerning known geologic structure of an oil and gas field will not be disturbed in the absence of proof the determination is erroneous, nor will the rental be reduced without such proof.

APPEARANCES: H. Hunter White III, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

TXO Production Corporation has appealed from a March 24, 1982, decision of the Colorado State Office, Bureau of Land Management (BLM), increasing the annual rental for oil and gas lease C-27406. The BLM decision increased the rental rate to \$2 per acre for all the land contained in the lease pursuant to section 2(d)(b) of the lease in which the lessee agrees:

Rentals. -- To pay the lessor in advance an annual rental at the following rates:

\* \* \* \* \*

(b) If the lands are wholly or partly within the known geologic structure of a producing oil or gas field:

(i) Beginning with the first lease year after 30 days' notice that all or part of the land is included in such a structure and for each year thereafter, prior to a discovery of oil or gas on the lands leased, \$2 per acre or fraction of an acre.

See 43 CFR 3103.3-2(b)(1).

The March 24 BLM decision announced a determination had been made that part of the leased land was within a known geologic structure. This determination was based upon a report dated August 27, 1981, from Geological Survey (Survey) that gas development in the area had resulted in the inclusion of certain leased lands within the "South Douglas Creek Defined Known Geologic Structure, effective August 14, 1981" (Memorandum dated Aug. 27, 1981, from Richard T. Hunter, Survey).

Appellant TXO Production Corporation does not challenge the correctness of the determination of the leased land to be within a known geologic structure. The appeal instead focuses upon another provision of the lease restricting drilling activity on the lease. TXO complains in its statement of reasons:

TXO Production Corp. feels that this decision is unfair and should be reversed because the lease in question has a "no drilling stipulation" as it is within the boundaries of a wilderness study area. Theoretically, the reason for this increase in delay rental rates is that, if a company is not going to develop a lease which is near a known geologic structure, then it should be willing to pay more (i.e. higher rentals) to simply hold on to the acreage. Likewise, the BLM should receive higher rentals as the lease is more valuable. TXO Production Corp., however, finds itself in the position of being unable to develop the lease because of restrictions which you have placed on it, yet you would penalize us for not developing the lease by increasing the rental rate!

(TXO Production Corporation Statement of Reasons dated Apr. 22, 1982).

[1] This Board has consistently held the productive quality of leased lands determined to be located within a known geologic structure is not guaranteed by the Survey's classification. In any event, the determination will not be disturbed in the absence of proof that it is erroneous. Robert G. Lynn, 61 IBLA 153 (1982). The Department further has decided in cases where a rental rate increase is based upon a determination that leased land is within a known geologic structure the rental may not be reduced absent a showing the determination was improperly made. Roy L. McKay, 57 IBLA 401 (1981). In this case there has been no such showing. Appellant's argument concerning the effect of the limitation upon drilling activity is not well taken.

Accordingly, pursuant to the authority delegated by the Secretary of the Interior to the Board of Land Appeals, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness  
Administrative Judge  
Alternate Member

We concur:

C. Randall Grant, Jr.  
Administrative Judge

Will A. Irwin  
Administrative Judge

